



General Assembly

January Session, 2005

**Amendment**

LCO No. 6916

\*HB0668806916HDO\*

Offered by:

REP. VILLANO, 91<sup>st</sup> Dist.

REP. GIBBONS, 150<sup>th</sup> Dist.

To: Subst. House Bill No. 6688

File No. 690

Cal. No. 480

(AS AMENDED)

**"AN ACT IMPLEMENTING CERTAIN GOVERNOR'S BUDGET  
RECOMMENDATIONS WITH RESPECT TO SOCIAL SERVICES  
PROGRAMS."**

1 After the last section, add the following and renumber sections and  
2 internal references accordingly:

3 "Sec. 501. Section 17b-261a of the general statutes is repealed and  
4 the following is substituted in lieu thereof (*Effective from passage*):

5 [(a) The Commissioner of Social Services shall seek a waiver of  
6 federal law for the purpose of establishing that the penalty period  
7 during which an applicant for or recipient of assistance for long-term  
8 care under the Medicaid program is ineligible for Medicaid-funded  
9 services due to a transfer of assets for less than fair market value shall  
10 begin in the month the applicant is found otherwise eligible for  
11 Medicaid coverage of services rather than in the month of the transfer

12 of assets. This section shall only apply to transfers that occur on or  
13 after the effective date of the waiver. The provisions of section 17b-8  
14 shall apply to this section.]

15 [(b)] (a) Any transfer or assignment of assets resulting in the  
16 imposition of a penalty period shall be presumed to be made with the  
17 intent, on the part of the transferor or the transferee, to enable the  
18 transferor to obtain or maintain eligibility for medical assistance. This  
19 presumption may be rebutted only by clear and convincing evidence  
20 that the transferor's eligibility or potential eligibility for medical  
21 assistance was not a basis for the transfer or assignment.

22 [(c)] (b) Any transfer or assignment of assets resulting in the  
23 establishment or imposition of a penalty period shall create a debt, as  
24 defined in section 36a-645, that shall be due and owing by the  
25 transferor or transferee to the Department of Social Services in an  
26 amount equal to the amount of the medical assistance provided to or  
27 on behalf of the transferor on or after the date of the transfer of assets,  
28 but said amount shall not exceed the fair market value of the assets at  
29 the time of transfer. The Commissioner of Social Services, the  
30 Commissioner of Administrative Services and the Attorney General  
31 shall have the power or authority to seek administrative, legal or  
32 equitable relief as provided by other statutes or by common law.

33 [(d)] The Commissioner of Social Services, upon the request of a  
34 nursing facility, may grant financial relief to a nursing facility if the  
35 nursing facility establishes that (1) it is experiencing severe financial  
36 hardship due to the transfer of asset penalty period beginning in the  
37 month the applicant is found otherwise eligible for Medicaid coverage  
38 of services rather than in the month of the transfer of assets; and (2) it  
39 has made every effort permissible under state and federal law to  
40 recover the funds that are due to it for caring for the individual. No  
41 request for financial relief may be made by a nursing facility unless the  
42 individual who is the subject of the imposition of the penalty period  
43 has resided in the nursing facility for at least ninety days with no  
44 payment having been made on the individual's behalf during that

45 period. If the department agrees to grant financial relief to the nursing  
46 facility in the form of providing Medicaid payment to the facility, the  
47 department shall seek recoupment of said payment from the  
48 individual and the transferee by pursuing all means available to it  
49 under state and federal law.

50 (e) The Commissioner of Social Services may waive the imposition  
51 of a penalty period when the transferor (1) suffers from dementia at  
52 the time of application for medical assistance and cannot explain  
53 transfers that would otherwise result in the imposition of a penalty  
54 period; or (2) suffered from dementia at the time of the transfer; or (3)  
55 was exploited into making such a transfer. Waiver of the imposition of  
56 a penalty period does not prohibit the establishment of a debt in  
57 accordance with subsection (c) of this section.

58 (f) In reviewing transfers of assets for purposes of determining  
59 eligibility for medical assistance, the department shall consider those  
60 transfers of assets involving real property that occurred within sixty  
61 months preceding the date on which an institutionalized individual  
62 has applied for medical assistance under the Medicaid state plan,  
63 except transfers of real property that are exempt under department  
64 regulations. Transfers of assets that do not involve real property  
65 remain subject to the look-back provisions contained in federal law.

66 (g) The Commissioner of Social Services may establish threshold  
67 limits, which shall be the cumulative amount of transfers that may be  
68 made within any year of the look-back period without resulting in the  
69 imposition of a transfer of assets penalty.]

70 [(h)] (c) The Commissioner of Social Services, pursuant to section  
71 17b-10, shall implement the policies and procedures necessary to carry  
72 out the provisions of this section while in the process of adopting such  
73 policies and procedures in regulation form, provided notice of intent to  
74 adopt regulations is published in the Connecticut Law Journal not later  
75 than twenty days after implementation. Such policies and procedures  
76 shall be valid until the time final regulations are effective."